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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

PROTON ASSOCIATES LLC, and
SETH MILLER,

Plaintiffs,

vs.

AVELO, INC.,

Defendant.

Case No.: 2:25-cv-00856-CDS-BNW

**DECLARATION OF SETH
MILLER IN OPPOSITION TO
DEFENDANT AVELO, INC.'S
MOTION FOR TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

1 I, Seth Miller, state the following:

2 1. I am over eighteen (18) years of age. I am a Plaintiff in this action.
3 I am the principal of Proton Associates LLC, also a Plaintiff in this case. I make
4 this declaration on behalf of myself and Proton Associates in opposition to
5 Avelo's Motion for Temporary Restraining Order and Preliminary Injunction.
6 I have personal knowledge of the facts set forth herein except as stated
7 otherwise. If called to testify, I could testify competently thereto.

8 2. I am an aviation enthusiast. I have not only worked in the
9 industry as a journalist and consultant for a long time, but I am also an avid
10 traveler. To date, I have flown on over 1,900 flights on 150 airlines that total
11 more than 2 million miles.

12 3. I serve in the New Hampshire House of Representatives as a
13 representative to Strafford County District 21.

14 4. I strongly oppose the Trump administration's approach to
15 immigration. As such, when I learned that Avelo Airlines agreed to a contract
16 with the Department of Homeland Security to operate deportation flights for
17 U.S. Immigration Control and Enforcement, and that those deported are often
18 shackled, I became angry and wanted to speak out.

19 5. I started the "AvGeek Action Alliance" to inform the public about
20 Avelo's contract and to dissuade the public from flying Avelo until it stops
21 providing chartering deportation flights for ICE. I labeled this public service
22 campaign "avelNO!"

23 6. The goal of the avelNO! campaign is to tell as many people about
24 Avelo's contract as possible. To be effective, I designed avelNO!'s billboards and
25 websites to be eye-catching, informative, and honest.
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1 7. Avelo is an ultra-low-cost carrier airline that is not particularly
2 well known in America. As such, people do not quickly associate the plain text
3 word “Avelo” with the airline company.

4 8. To help people understand that my billboards are about Avelo
5 Airlines, I used a variant of Avelo’s logo with stylistically different lettering
6 and colors to brand the avelNO! campaign. And to make it clear that the
7 avelNO! campaign is critical of Avelo, rather than sponsored by it, I put a
8 distinct red “N” in between the “l” and “o” in Avelo” and an exclamation point
9 behind the “o.” Thus, the avelNO! campaign uses branding that is clearly
10 critical of Avelo rather than suggesting any endorsement or affiliation by
11 Avelo. To emphasize this, the avelNO! billboards and website contain a bright
12 disclaimer that they are “Paid for by AvGeek Action Alliance.”

13 9. My campaign has leased three billboards with Lamar and
14 published a website, avelNO.com, to spread avelNO!’s message that Avelo
15 Airlines is operating flights in service of the Trump administration’s
16 deportation push.

17 10. A true and correct picture of my billboard is here:



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2 11. The avelNO.com website provides more in-depth information
3 about the avelNO! campaign. A permanent link to the site as it appeared on
4 May 14, 2025, is available at <https://perma.cc/R2XY-Q9LP>. I picked that
5 domain name because it is the name of the avelNO! campaign, catchy, and
6 suggests disapproval of Avelo's business practices.

7 12. Anyone who visits the avelNO! website can donate to the
8 campaign, with 100% of funds going to AvGeek Aviation Alliance's support of
9 the avelNO! campaign. AvGeek is the same legal entity as Proton Associates
10 LLC.

11 13. The avelNO! public service campaign has garnered public
12 attention from local, state, and national media. As such, members of the public
13 now recognize the avelNO! branding to represent the campaign.

14 14. Neither myself nor AvGeek sell any goods or provide any services
15 to anyone. It did allow people to donate online to support the campaign, and I
16 committed 100% of donated funds to paying for billboard leases and similar
17 public awareness efforts. To date, I have spent more money on the campaign
18 than I have fundraised (in other words, I am losing money in order to spread
19 my message).

20 15. Notwithstanding the fact that avelNO! is strictly a public service
21 campaign that does not engage in commerce, AvGeek received a cease-and-
22 desist letter from Avelo Airlines accusing me of violating its intellectual
23 property in various ways. It demanded AvGeek "immediately cease" what it
24 deemed to be avelNO.com's infringing activities. A true and correct copy of this
25 letter is attached as Miller Ex. A.

26 16. Avelo sent a similar letter to Lamar, the company that owns the
27 billboards I lease. A true and correct copy of the letter that I obtained is
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1 attached as Miller Ex. B. I understand that Avelo similarly threatened Lamar
2 with bringing a variety of intellectual property claims. Just days after Avelo
3 sent that letter, I learned from a Lamar representative that, because of Avelo's
4 letter, I would have to change the design of the avelNO! billboards.

5 17. Forced to abandon my preferred design for my public service
6 campaign, I settled on designs that do not use Avelo's colors or logo. The revised
7 billboards are:



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12 18. As a result of changes forced by Avelo's legal threats to myself,
13 AvGeek, and Lamar Corporation, the avelNO! campaign now has less effective
14 messaging. I believe the design that Avelo threatened, and that has since been
15 taken down, to be the most effective messaging for avelNO!'s purposes.

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17 19. I believe avelNO! does not violate Avelo's intellectual property
18 and the campaign's messaging is protected by the First Amendment. As such,
19 I sued to protect my ability to speak out on a matter of tremendous public
20 concern in as effective a way as possible.

21 20. Avelo brought counterclaims against me and Proton Associates
22 d/b/a AvGeek. I understand that Avelo is now seeking a temporary restraining
23 order and a preliminary injunction.

24 21. If the court makes me forego my preferred design or lose my
25 website domain name, avelNO! will be unable to promote its message
26 effectively. The avelNO! campaign's digital home is avelNO.com, and it will be
27 difficult to attract attention to a new domain name. And if the Court bars
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1 avelNO's ability to use its distinct variant and spin off the Avelo mark, it will
2 frustrate avelNO's ability to reach drivers on the highway—the target
3 audience of avelNO's billboards. That is because, based on my deep
4 understanding of the aviation industry, I believe that Avelo Airlines, like many
5 other lesser-known airlines, do not have the name recognition of larger airlines
6 like Delta, American, or Southwest. As such, my preferred design is necessary
7 to effectively spread my message about Avelo Airlines. Thus, the injunction
8 that Avelo asks for threatens avelNO's ability to fulfill its mission of letting
9 others know that Avelo is operating deportation flights for the Trump
10 administration.

11 I declare under penalty of perjury under the laws of the United States
12 of America that the foregoing is true and correct.

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14 Dated: July 15, 2025

15 /s/ Seth Miller

16 SETH MILLER
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